

MEMORANDUM

DATE: February 13, 2007

TO: Ms. Sharon L. Summers, DMMA
Policy and Program Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 10 DE Reg. 1219 [DMMA Proposed Long Term Savings Bond Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) proposal to modify its treatment of U.S. Savings Bonds as countable resources for purposes of Medicaid long-term care eligibility. The regulation was published as 10 DE Reg. 1219 in the February 1, 2007 issue of the Register of Regulations. The current regulation states that the bonds are not countable resources during the retention period but, if hardship redemption is requested and granted, the U.S. Treasury check is counted as a resource. SCPD has the following observations.

First, for your information, the Summary of the Proposed Change contains many errors. See references to "calrifying", "submitter", "avaailable", "valluation", and "ubless".

Second, the text of the regulations may not achieve the intent as reflected in the Summary. The Summary characterizes Savings Bonds as an available resource upon purchase unless a waiver of the retention period is requested and denied. The text retains the provision that the "(bonds) are not resources during the retention period." This is ostensibly contradicted later with the addition of "(s)ince bonds are redeemable due to a hardship, the redemption value is treated as an available resource."

Third, a number of state Medicaid agencies have been adjusting their treatment of U.S. Savings Bonds. The attached Vermont materials compile both objections to treating Savings Bonds as resources upon purchase (including inconsistency with SSA POMS) and Vermont's agreement that the Bond should not be counted as a resource while the waiver request is pending. The Delaware regulation is unclear in this respect.

Fourth, a number of states also include a "grandfather" provision for existing Savings Bonds. For

example, Vermont adopted its regulation effective December 1, 2004 with the following exclusion:

Savings bonds purchased before June 15, 2004 that have their minimum retention period expire after that date continue to be an excluded resource if they are not redeemed, exchanged, surrendered, reissued or otherwise become available.

In summary, SCPD would prefer: 1) abandonment of this initiative based on the SSA POMS approach (Savings Bonds are not resources during retention period); but 2) if adopted, there needs to be consistency among the standards and inclusion of a “grandfather” provision akin to the Vermont standard.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

cc: Mr. Harry Hill
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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